

DEPARTMENT OF INFORMATION RESOURCES OPEN BOARD MEETING

Thursday, August 18, 2016, 10:00 a.m.

300 West 15th Street, Clements Building, Room 103 Austin, Texas 78701

MINUTES

PRESENT John B. Scott (Board Chair)
Charles Bacarisse
Linda Shaunessy
Rigo Villarreal
Stuart Bernstein
Bowden Hight, *ex-officio*
David Mattax, *ex-officio*
Darren Anderson, *ex-officio*

ACTION Mr. Scott called the meeting to order at 10:01 a.m., with a quorum present.

TOPIC **2. Board Administration**

Consider approval of meeting minutes from the May 19, 2016, and May 26, 2016, Board Meetings.

MOTION A motion was made to approve the previous meeting minutes by Mr. Bacarisse and seconded by Mr. Bernstein.

ACTION The minutes were unanimously approved.

TOPIC **3. Executive Director's Report on Agency Performance**

Ms. Stacey Napier gave the board a brief update. First I want talk about a celebration, and I know that in years past, it would have been nearly impossible to imagine a time that we would be regularly celebrating the successes of the Data Center program, but it certainly has thrived under the DIR leadership team over the past few years. So, after years of working toward this goal, we were pleased to announce the 75% consolidation target was hit on August 2nd, almost a month ahead of schedule. This achievement was only realized due to the outstanding work of the entire DCS team.

The Executive Director briefings continue and are going very well and we are getting great feedback from our customers about the DIR programs and will continue to reach out through the fall. The staff level budget briefing is scheduled for September 8th, this will be the first opportunity for us to present DIR's FY 18-19 budget. Mr. Villalpando and I will be present along with other executive staff to present the DIR budget after you approve it today. Interim Legislative hearings are continuing but have slowed down a little. Mr. Todd Kimbriel testified this week on contracting issues before House State Affairs, and we have been invited to testify at Senate Finance in September on IT Modernization and Contracting. We are still seeing quite a bit of interest in cybersecurity and giving briefings to members in that area.

The budget team has been focused on our FY 18/19 LAR. My goal going into this budget process to look for opportunities to continue the level of services we have been offering to our customers but

looking for ways to achieve cost savings. Also looking for way to decrease our fees as well and where possible, pass those on to our customer agencies. We are also working on our Biennial Operating Report and trying to formulate some Legislative agenda items that will be included in Biennial Operating Report Chairman Scott and I met with Chairman Drew Darby in San Angelo last month along with DIR staff and get some great feedback and direction on where he would like to see the data center program going in the future.

Ms. Napier introduced the new employees.

TOPIC

Executive Session

ACTION

Mr. Scott recessed to executive session at 10:09 a.m., pursuant to the Texas Open Meetings Act to consult with its attorney pursuant to Section 551.071, Government Code, and to consider matters under Section 551.074, Government Code. No actions were taken.

Mr. Scott called the meeting back to order at 10:41 a.m., following the executive session. A quorum of the board was present. The board did not vote or take any action in the executive session. *Mr. Scott* continued with the agenda.

TOPIC

4. Finance Audit

DISCUSSION

Mr. Nick Villalpando, Chief Financial Officer provided a finance update. He updated the Board on the Operating Results for FY 16-Q3; the Forecasted Year End Fund Balance; the Operating Budget for Fiscal Year 2017; and the Legislative Appropriation Request (LAR) for Fiscal Years 2018-2019.

Mr. Villalpando updated the Board on the Board Subcommittee Report on Audit and Finance: We held a couple of budget workshop with the audit finance subcommittee over the last few weeks, going through a lot of the budget detail and year to date results, etc. We appreciate the time that the audit subcommittee gave us in discussions and provided a lot of good feedback.

Mr. Villalpando discussed the third quarter operating results as of May 31, 2016. We are close to being on track in terms of our net revenue and net income for the fiscal year. DIR had budgeted about \$1.3M for fiscal year, once we covered all of cost of services and operating expenses. We are anticipating at ending at about \$1.6M in net revenue for fiscal year 2016. We have few weeks left to go and the year-end totals could change, but this is what we have forecasted. The monitoring that we have done, we have seen some impact on the Data Center Services gross revenue from what we originally first budgeted. This is why you see some negative variances throughout the financial statements. As we have talked about throughout the fiscal year, the Data Center revenue was one of the leading factors for some of the negative variances that you see. In terms of ending the fiscal, I feel there is a pretty positive note in terms of the revenue that came and being able to manage our expenses.

Mr. Villalpando discussed the Forecasted Year End Fund Balance as of May 31, 2016: We have a fund balance maximum to stay within and it is managed very closely. We are anticipating ending the fiscal year with an ending fund balance, agency wide, of about \$ 3.5M, well within our current maximum allowable fund balance of about \$4.5M. As we go throughout the fiscal year and monitor and manage our financial results, one of the key indicators that we look to is our fund balance.

DISCUSSION

Mr. Bacarisse commented: I know in the years past, we've had to spend money to cover contingencies, like placing security card readers and so forth in the capitol. Do we have any of those unbudgeted contingencies in this last fiscal year?

Mr. Villalpando responded: We did have some particularly in our cost of service area for DCS with respect to some needed infrastructure upgrades. We will also discuss in FY2017 some of the things we are budgeting for, i.e., some of the needs in the San Angelo Data Center and some of the power upgrades that we'll need to make.

Mr. Bacarisse asked: Do you anticipate that some of that fund balance will be expensed to meet the need of those upgrades?

Mr. Villalpando responded: Yes, that's one of the purposes of having the available fund balance as a cushion, if you will, to provide a funding source.

Mr. Villalpando discussed the Operating Budget Fiscal Year 2017: Mr. Villalpando gave an overview of DIR's Budget Assumptions/Philosophy. All of DIR's funding comes from fees charged to government entities who use DIR services. DIR is a full cost-recovery entity. DIR is not appropriated any General Revenue. Administrative (cost-recovery) fees are set at levels intended to be sufficient to recover DIR's operating costs. Due to inherent uncertainties with forecasting customer demand for DIR services, actual revenues may be more or less than amounts needed to recover costs for a given year. Costs, including cost of services and operating expenses, may fluctuate depending on customer demand for DIR services. Each of the programs/business lines is governed by unique legislative requirements regarding fee setting and use of funds.

There are three components that govern costs for the Operating Budget:

1. Direct Costs: Costs directly associated with providing telecommunication services, data center services, and cooperative contracts
2. Other Direct Costs: Costs associated with activities DIR is mandated to provide, but for which DIR receives no General Revenue funding, such as policy and guidelines development, statewide technology planning, statewide security (including Cybersecurity) and Texas.gov oversight.
3. Indirect Administration Costs: Costs associated with DIR overhead activities such as finance, human resources, internal information resources, legal, etc.

Mr. Villalpando gave an overview of the Fee setting Goals; maximize cost savings for customers, Recover and minimize cost of program operations, minimize fee volatility for customers and comply with laws and regulations.

Mr. Villalpando gave an overview of forecasting customer demand. DIR considers multiple factors when forecasting demand for DIR services; historical volumes, statewide economic indicators, Information technology spending trends and state appropriations (i.e. Data Center Services)

Mr. Villalpando gave an overview of the Administrative Fees for FY2017:

- Cooperative Contracts
 - Fees are paid to DIR by vendors who sell goods and services to eligible customers
 - Vendor prices charged to customers include the DIR fee

- Current estimates for FY2017 average administrative fee is 0.665%
- Current FY2017 operating revenue estimate is \$ 13.8M
- Based on \$2.1B customer volume
- Data Center Services
 - DIR charges a 2.95% administrative fee to DCS customers
 - The fee is applied to the monthly customer invoice based on amounts charged by DCS vendors
 - Current FY2017 operating revenue estimate is \$5.6M
 - Based on \$241.2M customer volume (based on customer forecasts)
- Communications Technology Services (CTS)
 - CTS division delivers a range of services to customers
 - Capitol Complex Telephone System (CCTS)
 - TEX-AN Statewide Telecommunications
 - Wireless Services
 - Services are divided into three categories for fee setting
 - Vendor-provided services (voice minutes, circuits, wireless, etc.)
 - DIR-provided services (CCTS line charges, voice mail, data, etc.)
 - GO-Direct Wireless, Local, and Managed Services telecom contracts

Mr. Villalpando gave an overview of the current CTS Estimated Fees for FY2017:

- CCTS
 - Revenue is earned from operating the Capitol Complex Telecommunications System
 - See attached Fee Schedule for monthly charges and additional miscellaneous services
- TEX-AN
 - Revenue is earned by charging the following administrative fees:
 - 12% for TEX-AN vendor-provided services
 - 4% for Go Direct local service contracts
 - 2% for GO Direct wireless services and conferencing
 - .5% for GO Direct managed telecommunications services
 - See attached Fee Schedule for additional miscellaneous services
 - Revenue is also derived from telecom projects performed at customer request
 - Total Current FY17 Administrative Fee Revenue Estimate is \$15.6M
 - Based on \$93.2M customer volume
 - Internet fee structure being changed to eliminate transport fees (this is a slight reduction and total overall impact is about \$250K)

Mr. Villalpando commented that on an annual basis DIR looks to see where it can reduce fees if possible for the customers. Given where we are and what our volume is doing, we feel that we can eliminate and reduce that fee down to zero, at least that component of that fee; and be able to manage that reduction. Everything else will stay constant. Within TEX-AN, the administrative fees vary from 0.5% to 12%. At this point we are forecasting about \$15.6M in Administrative Fee Revenue coming into DIR, based on \$93.2M customer volume for next year.

Mr. Villalpando presented the Budget Highlight for FY2017:

- The General Appropriations Act (GAA) limits DIR's total expenses. However, per the GAA, a request from DIR to exceed appropriated amounts shall be considered approved unless the Legislative Budget Board (LBB) issues written disapproval within 30 days.
- The Budget includes 198 full time equivalent (FTE) positions (maximum per GAA).
- Fiscal Year 2017 initiatives include:
 - Procurement activity for several enterprise-wide services
 - Continued development of Application Portfolio Management (APM) and Business Analytics and Reporting (BAR) capabilities
 - Power upgrades at San Angelo Data Center
 - Power and cooling upgrades for telecom infrastructure at Sam Houston Building

Mr. Villalpando presented the Appropriations Comparison. DIR is appropriated at \$373M. After adding some of the Article IX provisions and Rider increases that we are allowed for in the GAA, we are bringing a budget to the Board a total of \$347M that is below our appropriated amounts. Over the course of the year, should we need to come back to the Board with a budget amendment, we will have some room to increase appropriations, prior to having to send a request to the LBB. \$347M is the total budget amount that we will be requesting for budget for approval in FY2017.

Mr. Villalpando presented the FY2017 Operating Statement for DIR: DIR's Operating Revenue is at \$35M after paying cost of services and the total operating expenses. We forecasting Ending Fund Balance FY2017 of \$3.2M. We are forecasting budgeting at a slight loss next year; given the environment and the landscape of what agencies are having to do in terms of potential budget reductions, etc. We will use our Fund Balance to off-set some of the down periods. We can't do it forever; however, next year we feel that we can. Given our revenue streams and our beginning fund balances, we are able to fully fund our budget request, even with a slight loss. Again, we'll continue to monitor that throughout the year. This is one of the reasons we have a Fund Balance—to mitigate these risks.

The majority of DIR's Operating Budget goes into Cost of Services and Cost of Sales. We operate the agency on about 10% of the total budget that comes into DIR. This is standard. Over the course of the last several years, our operating budget has stayed around 10% in terms of the total budget.

Mr. Villalpando presented the Revenue Budget by Funding Source: COOP, TEX-AN, CCTS and DCS.

MOTION A motion was made to approve FY2017 Operating Budget Request by *Ms. Shaunessy*, then seconded by *Mr. Villarreal*.

ACTION The motion for the FY 2017 Operating Budget was unanimously approved.

MOTION A motion was made to approve FY2017 Administrative Fees by *Ms. Shaunessy*, then seconded by *Mr. Bacarisse*.

ACTION The motion for the FY2017 Administrative Fees was unanimously approved.

Mr. Villalpando presented the FY18/19 Legislative Appropriation Request (LAR)

- Revenues

- Cost-recovery fees are maintained at FY2017 rates for Data Center Services and Communication Technology Services.
 - We anticipate a slight reduction in Cooperative Contracts fees in FY2019.
 - Data Center Services' forecast is based on preliminary LAR submissions from customer agencies and is subject to change pending the passage of the final General Appropriations Act (GAA).
 - For FY2019, DIR is requesting to incorporate Texas.gov revenue and expenditures into DIR's budget/appropriations.
 - No General Revenue or Exceptional Items Requested
- Expenses
Mr. Villalpando discussed the budget of FY 17/18/19. The major of the expenses go to Cost of Services and the remaining from our Operating Budget.

Mr. Villalpando discussed the FY18/19 Legislative Appropriation Request highlights.

- Initiatives
 - Procurement activity for several enterprise-wide services
 - Delivery of Application Portfolio Management (APM) and Business Analytics and Reporting (BAR) capabilities
 - Power and cooling upgrades for telecom infrastructure at Sam Houston Building
 - DIR Router Upgrades (Capital Budget Item)
 - Development of Information Technology Staffing Services Contracts Portal (Capital Budget Item)

Mr. Villalpando commented that any time DIR needs to invest in infrastructure it is to the benefit of our customers. We don't need capital budget authority because we have specific Riders that allow DIR to spend money on behalf of the state network or the state customers, etc. There are provisions that we need to comply with and we need to provide ample notice to our oversight bodies that we intend to invest in those enhancements and improvements. However, this doesn't count as a capital budget item because it's for the benefit of the overall state-wide network and to the benefit of our customers. Anytime we have a capital project that would be for DIR's specific use, those capital budget Riders do apply to DIR and we need to ask for specific approval, such as upgrades to internal routers or internal systems.

Requested Budget Rider Modifications

- Increase maximum allowable fund balances that DIR can maintain
- Request authority to assess additional agencies for participation in Data Center Services. Includes review of servers currently exempt from DCS
- Requests to incorporate Texas.gov revenue and expenditures into DIR's budget/appropriations beginning in FY2019
 - Provides additional transparency into Texas.gov financial operations.
 - DIR will collect revenues and pay Texas.gov expenses.
 - Should not impact budget certification since n general revenue appropriations are being requested.
- Request an increase to the maximum Executive Director's salary appropriation authority to \$227,038. (This is a request to increase the budget authority only. The Board ultimately has the responsibility to set an Executive Director's salary. This would basically put this

number in our appropriations bill and that would be the maximum amount that could be paid the Executive Director.)

Mr. Villalpando discussed the FY18/19 Income Statement presented in DIR's Legislative Appropriations Request and reviewed in detail with the Audit Finance Subcommittee: As cost recovery agency we manage our finance operations looking at our forecasting revenues, Cost of Services and our Operating Expenses.

MOTION A motion was made to approve FY18/FY19 Legislative Appropriations Request by *Ms. Shaunessy*, then seconded by *Mr. Bernstein*.

ACTION The motion for the FY18/FY19 Legislative Appropriations Request was unanimously approved.

DISCUSSION *Mr. Scott* commented: We have an action item to consider approval for FY16 Operating Budget Amendments. Do we need to vote on that?

Mr. Villalpando apologized and stated that is just a place holder, no action needed.

DISCUSSION Mr. Villalpando thanked all of the DIR staff, particularly the budget finance, operations teams, our Executive Director, Stacey Napier, and the DIR Board for the time and effort that was put into helping with this effort.

Mr. Scott commented: Thank you.

ACTION The motion for the budget amendment was unanimously approved.

TOPIC **5. Internal Audit Update**

Ms. Lissette Nadal-Hogan, Director of Internal Audit, provided the board an update on FY2016-Q3 and Internal Audit Annual Plan. Ms. Nadal-Hogan gave an overview of the Audit Projects. Ms. Nadal-Hogan will be asking for approval of the following assurance audits:

Internal Audit conducted a DIR Governance Assessment. The assessment was conducted by the Weaver and Tidwell Audit Firm on behalf of DIR Internal Audit (IA). This assessment project was included in the Fiscal Year 2016 Internal Audit Annual Plan. The objectives of the assessment were to assess the design and operating effectiveness of DIR's governance processes, and assess whether the DIR Information Technology (IT) governance supports the Agency's strategic goals and objectives, IT resource and performance management are effective, and the risks that may adversely affect the IT function.

As part of the Agency's emphasis on governance, IA performed procedures such as interviews and review of minutes, administrative rules, and policies and procedures, to determine the maturity of DIR's overall governance and governance specific to the (IT) function. The scope of the audit concerned the framework and procedures put in place by the DIR Board and the Executive Leadership Team (ELT) to inform, direct, manage, and monitor the activities of the agency. Concurrent with this discovery process, the team developed and customized agency governance and IT governance maturity models against which the Agency's maturity was evaluated. The maturity models included evolution levels progressing from "Initial" (Level 1) to "Optimizing" (Level 5).

Overall, DIR exhibits a commitment to improving governance processes throughout the agency. Over the years, the Agency has made great efforts to improve organizational governance. The Agency has reviewed and revised policies and procedures, improved internal communications, initiated a review of their employee evaluation process, and produced a comprehensive Board Member Guide. The onboarding process for new Board members has been well-received by those members that started their terms in 2016. However, the audit assessment resulted in 24 issues (or areas for improvement) where a gap was identified between the Agency's current governance practices and the goal state of maturity, as defined by DIR executive management.

When it comes to the DIR Agency Governance, the largest gaps in Agency Governance maturity were related to "Board Oversight", "Communication and Reporting", and "Risk Assessment". Ms. Nadal-Hogan discussed how DIR can mature its Agency Governance to reach its maturity goals.

The largest gaps in IT Governance maturity were related to "Organization and Governance Structure", "Executive Leadership and Support", and "Strategic and Operational Planning." Ms. Nadal-Hogan discussed how DIR can mature its IT Governance to reach its maturity goals. DIR management concurred with the results and recommendations reported by IA and provided action plans to implement the recommendations. Action plans to implement the recommendations are set for the period between 9/16 to 2/18. The final draft report has been reviewed by the Finance and Audit Subcommittee.

DISCUSSION

Mr. Bacarisse asked where he can find the definition of these maturity levels are.

Ms. Nadal Hogan responded yes, it should be in Appendix B.

MOTION

A motion was made to approve that the IA report of DIR Governance Assessment Report and allowed to be made public by *Ms. Shaunessy*, then seconded by *Mr. Bacarisse*.

ACTION

The motion for the IA report for DIR Governance Assessment Report and allowed to be made public was unanimously approved.

IA conducted a DIR Ethics Evaluation. This evaluation project was included in the Fiscal Year 2016 IA Annual Plan. The objective of the audit project was to evaluate the design, implementation, and effectiveness of DIR's ethics-related objectives, programs, and activities. To accomplish this objective, Internal Audit designed procedures to gain an understanding of DIR's business processes designed to implement an effective Ethics Program. In conducting these procedures, we interviewed subject matter experts, reviewed relevant documentation, administered an agency-wide survey to current employees, and conducted other evaluations and testing of transactions and training for the period of February 2016 to May 2016. In addition, IA assessed the maturity of the DIR Ethics Program using a maturity model with evolution levels progressing from "Initial" (Level 1) to "World Class" (Level 5). Ms. Nadal Hogan discussed ethics-related attributes for the maturity model design.

Overall, DIR designed and implemented an Ethics Program that is effective. Employees perceive that Executive Leadership takes compliance seriously and that Executive Leadership, management, other employees, and contractors within their divisions demonstrate high ethical standards. The results of the project evaluation performed support the maturity of the DIR Ethics Program is "Repeatable" (Level 2).

The DIR Ethics Program is designed to influence the DIR Board members and employees. It includes policies and procedures, Ethics Training, The Board Member Guide, New Employee Orientation, background checks, reference checks, informal communication through staff meetings and email reminders addressing ethics-related matters and updates. The Ethics Officer, who is also the General Counsel, is responsible for implementing and managing the DIR Ethics Program. The Ethics Officer researches the law for ethics-related compliance requirements, receives and resolves ethics-related issues, dilemmas, or conflicts of interests, and investigates allegations and complaints of fraud, waste, or abuse in coordination with the Internal Auditor.

The audit team found that DIR can mature its Ethics Program from “Repeatable” (Level 2) to “Defined” (Level 3) by designing and implementing additional processes and controls to improve the effectiveness, compliance, and success of its Ethics Program. DIR management concurred with the results and recommendations reported by Internal Audit and provided action plans to implement the recommendations. Action plans to implement the recommendations are set for the period between 8/16 to 12/16.

DISCUSSION

Mr. Scott thanked the UT Students who assisted on this report. There are two deadlines; 9/30/16 and 8/31/16. Are we on track to get those implemented and meeting the deadlines?

Mr. Zelinsky responded: yes.

Mr. Bernstein asked: has this evaluation been done in prior years?

Ms. Nadal-Hogan responded: this is the first time that DIR has had an Ethics Evaluation

Mr. Bernstein asked: when we will do it again?

Ms. Nadal-Hogan responded: We are planning on addressing in the follow-up process. However, there are other options for IA such as to continue performing this evaluation every two or three years or include ethics evaluation steps during the audit process to address pieces of it during the audit projects. Another alternative will be for management to implement an ongoing process of assessing the ethics climate within the agency and report to executive management periodically.

Mr. Scott commented: I would think you would want to do it no longer than every two years.

Mr. Mattax commented: that the survey should be every two years and but needs to be incorporate into Internal Audit so you are looking at it on a constant basis but then having UT folks come in to do a survey every two years.

MOTION

A motion was made to approve that the DIR Ethics Evaluation by Ms. Shaunessy, then seconded by Mr. Bacarisse.

ACTION

The motion for the DIR Ethics Evaluation Report was unanimously approved.

Ms. Nadal-Hogan discussed the 2016 Texas.Gov Financial Audit. According to Texas Gov. Code 2054.2721 requires that not later than August 15 of each year, DIR provides to the presiding officer of each house of the legislature; and the chair of each committee in the legislature, a copy of the audit report on the vendor's finances associated with the management and operation of the

Texas.Gov electronic web portal and digital government services for the state. To comply with those requirements, DIR contracted with Horne, LLP to conduct a financial audit of Texas NICUSA, LLC. Texas NICUSA, LLC is the Company that contracted with DIR to design, build, and operate the Internet-based portal and digital government services for the State of Texas.

TOPIC

6. Chief Procurement Office Update

DISCUSSION

Mr. Hershel Becker joined DIR as Chief Procurement Officer on July 18, 2016. He updated the Board on the Chief Procurement Office: Ms. Shannon Kelley, Manager for Enterprise Contracts, and Ms. Dana Collins, Manager of Cooperative Contracts, will join me later. The HUB subcommittee met on July 27th and we discussed items which will be covered in placed materials.

Ms. Kelly, Manager for Enterprise Contracts, will provide a brief report on enterprise service initiative. DIR is researching an Enterprise Contract Services initiative as part of the Procurement Plan that has been presented to you. We are looking at ways to obtain enterprise software licenses at a significant discount to our customers. While the Cooperative Contracts program executes some contracts with volume pricing discounts, in general discounts are based on a "volume of one," which is to say no guaranteed volume other than providing past history of purchases. We strongly believe that we can obtain much greater discounts with a guaranteed demand.

It is difficult to develop an enterprise license contract through the Cooperative Contracts program due to SB20's \$1 million cap on state agency purchases. Consequently, DIR has examined the possibility of using our general contracting authority in TGC Section 2054.0565, which allows other government entities to use contracts that DIR executes, but is not subject to the \$1 million cap. Consequently, our plan is to execute a master contract and then execute interagency or interlocal contracts with participating customers. We are considering a pilot program to determine best methods and practices.

Mr. Scott asked: Before we do the global contract are we going to reach out to the leadership at the governor's office, house and senate?

Ms. Napier replied: Yes, we have.

Mr. Scott responded: Will that allow the agencies of the state to be able to tap in to whatever the cost savings that you can provide over the contract?

Ms. Shaunessy asked: How much of a guarantee of usage do you think would be required and how would we get the agencies to agree to this guarantee?

Ms. Kelley replied: There have been some similar contracts prior to my tenure. It does not require a lot of work on the front end to discuss with agencies, but in some cases, companies may be willing to provide a more significant discount up front without a very specific guarantee, just a guarantee of consolidating all the purchases via a single contract vehicle. We have different options of looking at ways we can do it. We can do one where the agencies purchased directly from the vendor via interagency contract or we could hold the license and distribute and manage the purchases.

Ms. Shaunessy asked: Would you be negotiating software licensing terms as opposed to the agencies doing it? When people click through it wouldn't say normally what the companies say in the click through, so it would be different and would be only subject to what you negotiated?

Ms. Kelley responded: Yes. The idea would be for us negotiate the service agreements, many software licenses have the click through. They also have agreements that agencies are required to sign and we would negotiate those so the agencies would not have to negotiate themselves.

Ms. Shaunessy asked: So then, all of those would have the Texas clause as opposed to the New York or other law?

Ms. Kelley responded: Yes.

Ms. Shaunessy commented: They wouldn't have arbitration.

Ms. Kelley said: Exactly.

Ms. Shaunessy commented: That would be a real benefit in my opinion for the agencies. The click through would be inoperative or void because you already agreed to the terms so the other terms wouldn't apply.

Ms. Kelley responded: The terms that we negotiated would take precedence over any additional terms like that.

Ms. Shaunessy asked: Could you void them? I would prefer voiding as opposed to having both sets of terms in place.

Ms. Kelley responded: That would depend on the vendors, but in doing this initiative we would be looking for vendors that will work with us.

Mr. Mattax asked: In exchange for an extended contract for two years, are they going to give us a reduction in price?

Mr. Becker answered: Yes.

Mr. Villarreal asked: What is the total amount of the contract?

Ms. Kelley responded that she does not know. Mr. Becker informed the board that they would get that information for the board.

MOTION A motion was made to approve amendment to extend the Xerox Corporation contract for DCS Print/Mail services to August 31, 2020, by *Ms. Shaunessy* and seconded by *Mr. Bacarisse*.

ACTION The motion was unanimously approved.

MOTION A motion was made to approve amendment to extend the Hughes Network Systems contract for TEX-AN services to May 10, 2019, by *Ms. Shaunessy* and seconded by *Mr. Bacarisse*.

ACTION The motion was unanimously approved.

MOTION A motion was made to approve amendment to extend the ATT Corporation contract for TEX-AN services to June 1, 2019, by *Ms. Shaunessy* and seconded by *Mr. Bernstein*.

ACTION The motion was unanimously approved.

MOTION A motion was made to approve amendment to extend the Century Link contract for TEX-AN services to June 2, 2019, by *Ms. Shaunessy* and seconded by *Mr. Bernstein*.

ACTION The motion was unanimously approved.

MOTION A motion was made to approve amendment to extend the Level 3 contract for TEX-AN services to August 4, 2019, by *Ms. Shaunessy* and seconded by *Mr. Bacarisse*.

ACTION The motion was unanimously approved.

Mr. Becker requested approval for the annual procurement plan

Ms. Shaunessy asked: Is this so we will have a list of agreements that you're proposing to enter into?

Mr. Becker responded that these are procurement listings. These are procurement activities that we will undergo during the fiscal year.

Ms. Shaunessy asked: None of these require board approval?

Mr. Becker responded: We do not need board approval for each one. We are looking for board approve of the procurement plan.

Mr. Scott asked: Why you would need board approval.

Mr. Martin Zelinsky responded: This was a request by a previous board to approve the annual procurement plan. I think the request that procurement plans be offered to the board may have come out of our 2013 Sunset bill. It is something we have done each August for the next fiscal year, now for several years.

Mr. Bacarisse commented: it is an opportunity to see the full sweep of what is coming in their plan, it is helpful for us.

Mr. Becker commented that this is an active document. We may bring changes back to you at a subsequent board meeting.

Mr. Mattax commented: It is more informational than it is an action item.

Ms. Shaunessy asked: How we would know which one of these are HUB contractors?

Mr. Becker responded that these are procurement plans. These are solicitations that we will be working on the next couple of years.

Mr. Bacarisse commented: Each company that goes out for each of these, there is that HUB component that's brought into it.

Mr. Scott asked: How often are technology contacts get bid out?

Ms. Collins responded: Generally, with emerging technology, there are one year with three one-year renewals; services are two years with two one-year renewals—for a total cycle of four-years.

Mr. Scott commented: Four years is standard term for technology. How do cooperative contracts provide for seat changes or vast improvements—so that the state agencies, school districts, and folks that use your services or contracts are able access to most up-to-date products? So we don't get caught up having to wait four, three or two years to get them in.?

Ms. Collins responded: We do have an emerging technologies clause in our solicitations that do allow for situations wherein that particular scope of contract offering that emerging technology could be considered. If there were substantive changes that were far outside the emerging technology clause, what you would see us look at is doing some sort of augmentation. We would look at doing a subsequent solicitation that would include that scope if for whatever reason we weren't allowed to use the emerging technology clause.

Mr. Scott asked: How is it that the emerging technology could be so different from the existing technology? Wouldn't that also qualify for a new slot within the cooperative contracts so you wouldn't necessarily have to rebid?

Ms. Collins responded: It could. It would have to be an emerging technology that fit within the scope of the original offering. If it was so far out, it would be new or emergency and we couldn't have anticipated it. Then we would look at doing augmentation or we may not renew and choose to rebid.

Mr. Scott asked: Are the areas defined by rules or by statute? How do you come up with the areas?

Ms. Collins responded: User need, when we look at the solicitations we will be doing. One of the things we did in the last fiscal year is identify a need to look at the law enforcement community. We actually added a solicitation that included body cameras. It was something in the works but it happened to sync up nicely with the last legislative session.

Mr. Scott commented: Looking at areas like disaster recovery, is that something defined by rule at DIR?

Ms. Collins responded: By user need.

Mr. Scott commented: So that allows if there is a customer need, and there are two or more agencies expressing a need for a product, that demand would allow you to create a spot?

Ms. Collins responded: Yes, and we review the exemptions that come through and we also work with the agencies.

Mr. Bacarisse asked: Are we required to vote on this?

Mr. Zelinsky responded: The board is required to vote on the procurement plan, not on the listings of contract.

MOTION

A motion was made to approve the DIR Procurement Plan for 2017–2018 by *Mr. Villarreal* and seconded by *Mr. Bacarisse*.

Mr. Becker updated the board on the Cooperative Contracts Program: During FY16-Q3, DIR executed 34 contracts, bringing the FY16 yearly total to 91. Top customers for FY16 year-to-date are

- Health and Human Services
- City of San Antonio
- City of Austin
- Texas Department of Transportation
- The University of Texas M.D. Anderson Center

Also included in the presentation is customer purchases by product type. This information was added based on discussion during the most recent HUB and Cooperative Contracts subcommittee meeting.

Historically Underutilized Businesses (HUBs) for DIR Internal Procurements, overall we are 29.46% for FY16-Q3. And for statewide cooperative contracts, for the same reporting period, we are at 37.14%. DIR actively promotes the Texas HUB program. In FY16-Q3, our HUB coordinators, Lisa Maldonado and Lynn Sanchez, attended 32 Economic Opportunity Forums and participated in 25 outreach opportunities. The HUB department has reviewed 472 HUB subcontracting plans in FY16-Q3.

Mr. Scott thanked the HUB coordinators.

Mr. Mattax asked: What is the percentage for the HUB target on special trades and services?

Ms. Lisa Maldonado, HUB Coordinator came forward to respond to question: It was a one-time purchase to a non-HUB.

Mr. Mattax commented: So in different years it will be higher or lower.

Ms. Maldonado responded: That is correct.

Mr. Villarreal asked: What areas are you going to visit these Economic forums and how do you select them.

Ms. Maldonado responded: We get invited to a lot. We have been to Dallas, the Valley, El Paso and we are also co-sponsoring with Comptroller's office next week. Whenever anyone invites us to an event, we speak at the events and we also provide HUB sub-contracting training. The word is out about us being compliant on with sub-contracting plan.

Mr. Villarreal asked: Which organizations invite you to events?

Ms. Maldonado responded: Southwest Minority Council, Texas Association of Mexican American Chambers of Commerce (TMAAC), Local Chambers and work with Senator's West office in Dallas for spot bidding.

Mr. Bernstein recommended to Chairman Scott that it would be good for this board to have some understanding of the HUB universe and it the services we are looking at now so we can judge how we are doing. I would love more education on the HUB.

Mr. Scott asked: The HUB to prepare a report for the next board meeting to address these issues?

Ms. Maldonado responded: Yes.

TOPIC

7. General Counsel Update

DISCUSSION

Mr. Martin Zelinsky, General Counsel provided and update on the rule review schedule. By state law all agencies are required to review their rules every at least every four years. DIR does rules on a rotating cycle and the chart reflects the cycle.

Mr. Zelinsky discussed the rule making petitions report. We have received several over the last month, the summary of the petitioners were provided to you. The petitions received are all on the same topic which is to request the adoption of a Rule by DIR requiring the review of state agency statutory authority to receive services from contracts authorized under Chapter 2043, Government Code. All the petitions we received are currently under review and DIR will respond to the petitions in accordance with our rules.

Mr. Scott informed the board: That they have all the material for the other updates. There will be public comments today. If you have any questions or concerns regarding the other updates, please bring let me know and we will get the department up here. Mr. Scott thanked Mr. Block for allowing the board to come out and visit the NSOC. Congratulations to Mr. Dale Richardson and Ms. Sally Ward on reaching the 75% mark. If there are no questions, we will move to item 15 on the agenda.

Mr. Scott asked: If there is any public testimony, to please sign in. Please limit your comments to three minutes but if it goes over that is fine and if you have any written materials that you would like to add to the record, we are happy to take those.

TOPIC

15. Public Testimony

Ender Reed, Legislative Liaison with Texas Association of Counties and Ronnie Keister, Tax Assessor Collector for Lubbock County. Mr. Reed informed the board he does not have any written material; I think DIR has received about 50 petitions from County officials.

Mr. Reed gave the board background on why they are receiving the petitions. Mr. Reed received a question from county officials, can you find out what the process is at DIR to review authority or state agency authority to receive services. I thought it would be a five-minute conversation but as these things go it was a little longer and with help of Legislature get some information. It was kind of a whimsical answer in my world, that DIR uses the honor code to review state agency authority and trust state agencies at their word that they have authority to receive services. I ran back to my office and looked in statue for the honor code. It's alphabetical, government code, health safety code, insurance code but no honor code, I didn't see it in 2054 either. I thought to myself, I had the honor code when I was in school but we still had a hall monitor, still had a watch dog to make sure everyone was doing what they were doing. I think 2054 says pretty extensively there's a responsibility for DIR to review that authority and make sure that state agencies are going on providers and going beyond their authority. This is pretty much the background on the petitions on why County Officials all over the state. It takes a lot to bring urban, rural and suburban county officials together and you'll got it from across the state. Every district from pretty much every member of state affairs. They are very, very interested in making sure there is a process in place to get that reviewed.

Mr. Ronnie Keister, Tax Assessor Collector for Lubbock County informed the board that this all came about with a dispute with DMV and their authority as far as it relates to us. I don't want to drag you into the details of that because you guys have your own details you to deal with. It really comes down to what's the matter of good public policy. Good public policy is someone has to play watchdog and make sure that if a state agency wants to do something and they have to use you to contract for it that they have the statutory authority to do it. If TCEQ decide they need to raise revenue and decide they want to do online gambling, you're not going to let them do it. Same thing applies, you look for the statue and say ok yes it shows you can do it or no you can't. In this case in our dispute with DMV there's enough of a question that the bill author has requested an AG opinion to make sure that they can do it. Whereas DMV is just sliding the contract right through. We think at this point you'll should be able to say hold on let's wait, let's get clarification on anything but in particular our issue is with DMV.

Mr. Reed asked are there any questions.

Mr. Bacarisse asked what would be the financial impact for counties if this consolidation occurred.

Mr. Keister responded depending on the projection levels. There is a project level out there that had 10% conversion rate to centralization and in that case it would be over a million dollars through a five- year period. For county budgets that's still a chunk of change to come up with, statewide in the first year, the projection is about 8 million.

MOTION A motion was made to adjourn the meeting by *Mr. Bacarisse* and *Mr. Villarreal* seconded the motion.

ACTION The meeting adjourned at 12:47 pm.

Approved by the Board Chair:

Linda Shaunessy, Chair

Date